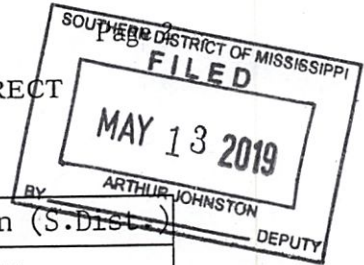


1:17-cr-00118-LG

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY



United States District Court		District Mississippi Southern (S.Dist.)	
Name (under which you were convicted): Erin Woods a.k.a. Erin Graham		Docket or Case No.: 1:17-cr-00118-LG-JCG	
Place of Confinement: Aliceville, Alabama		Prisoner No.: 20701-043	
UNITED STATES OF AMERICA		Movant (include name under which you were convicted) Erin Woods a.k.a Erin Graham	
v.			

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  
 Dan M. Russell Jr.  
 U.S. Courthouse  
 2012 15th Street  
 Room 403  
 Gulfport, MS 39501  
 (b) Criminal docket or case number (if you know): 1:17-cr-00118-LG-JCG
2. (a) Date of the judgment of conviction (if you know): July 24, 2018  
 (b) Date of sentencing: July 24, 2018
3. Length of sentence: 120 months
4. Nature of crime (all counts): COUNT 1: E.J. Graham did knowingly possess in and affecting interstate commerce a firearm. COUNT 2: E.J. Graham then knowingly possessed a firearm which had previously been shipped and transported in and affecting interstate commerce. COUNT 3: Both parties, being an unlawful user of a controlled substance in possession of a firearm. COUNT 4: Possession of Stolen Firearms.
5. (a) What was your plea? (Check one)  
 (1) Not guilty ☐      (2) Guilty ☒      (3) Nolo contendere (no contest) ☐  
 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?  
 The Defendant, Erin Woods a.k.a Erin Graham plead guilty to Unlawful User of a Controlled Substance in Possession of a Firearm
6. If you went to trial, what kind of trial did you have? (Check one)      Jury ☐      Judge only ☐  
 N/A

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒
8. Did you appeal from the judgment of conviction? Yes ☐ No ☒
9. If you did appeal, answer the following:
- (a) Name of court: N/A
- (b) Docket or case number (if you know): N/A
- (c) Result: N/A
- (d) Date of result (if you know): N/A
- (e) Citation to the case (if you know): N/A
- (f) Grounds raised: N/A

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know):
- (2) Result:
- (3) Date of result (if you know):
- (4) Citation to the case (if you know):
- (5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court? I wrote an

- Yes ☒ No ☐ appeal when I was in Harrison County Jail. I mailed it within 7-10 days of being sentenced and placed it in the mail with postage. It was sent to my sentencing court's address.
11. If your answer to Question 10 was "Yes," give the following information:
- (a) (1) Name of court: Dan M. Russell, Jr., U.S. Courthouse
- (2) Docket or case number (if you know): 1:17-cr-00118-LG-JCG
- (3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result:

(8) Date of result (if you know):

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: I told my attorney that I wanted to appeal, he did not honor my request. I filed a notice of appeal it was either not received or it was not filed.

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: My attorney was ineffective at the Investigation Stage/ Pre-trial stage.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- 1) My attorney failed to investigate the facts of the case.
- 2) My attorney failed to prepare and execute any affidavits.
- 3) My attorney failed to ask for more particulars of the alleged offense so that I would be properly prepared on what I was supposed to prepare a defense of.
- 4) My attorney failed to research and challenge the errors of fact and law in the presentence report.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

N/A, no appeal filed

(2) If you did not raise this issue in your direct appeal, explain why:

My attorney told me I could not appeal after signing a plea.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐ N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐ N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐ N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: My attorney told me I could not appeal if I signed a guilty plea.

GROUND TWO: My attorney was ineffective at the Plea Stage.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- 1) My attorney failed to properly explain the plea agreement to me and failed to explain the codes in the plea agreement.
- 2) My attorney did not give me enough time to read and understand the plea. He brought the plea to me in jail (through a chain link fence.) He paraphrased the plea agreement; passed the signature page through the fence and told me to sign it. I did.
- 3) My attorney told me I would be signing two pleas...1 for the media and one for the court (which would not be released)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐ N/A

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐ N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐ N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐ N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know): N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: My attorney told me I could not appeal once I signed a plea agreement. He never told me he allowed the government to waive my rights to appeal and that my rights to my documents was waived.

GROUND THREE: My attorney was ineffective at the Penalty/Sentencing Stage. My attorney did not notice or challenge the errors in my presentence report (errors of fact and law)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- 1) My attorney did not explain the purpose of the PSR or how it worked.
- 2) My attorney failed to notice or challenge errors in my presentence report; therefore, they are allowed to treat those errors as fact. I did not know that; my attorney did not explain that.

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐ N/A

(2) If you did not raise this issue in your direct appeal, explain why:

N/A - I did not appeal

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know):

N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐ N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐ N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐ N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: I did not appeal because my attorney told me I could not appeal if I signed a plea agreement of guilty

GROUND FOUR: My attorney was ineffective at the Appeal Stage.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- 1) My attorney failed to file a NOTICE of APPEAL though there were errors in my case.
- 2) My attorney failed to protect my rights by allowing me to unknowingly file an appeal waiver... I only found out what it meant after I was in prison and studying in the law library.
- 3) My attorney failed to raise serious guideline errors and even if he didn't find them during the original case, he should have reviewed everything and raised them on Appeal (anything he found later he could have raised).



(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐ N/A

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐ N/A

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know):

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐ N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐ N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐ N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: N/A

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: I was unaware that I could

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒ If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Melvin Cooper, Esq., 178 Main Street, Suite 104, Biloxi, MS 39530

(b) At arraignment and plea: Melvin Cooper, Esq., 178 Main Street, Suite 104, Biloxi, MS 39530

(c) At trial: N/A

(d) At sentencing: Melvin Cooper, Esq., 178 Main Street, Suite 104 Biloxi, MS 39530

(e) On appeal: N/A

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding: N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: N/A

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐ N/A

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\* N/A - My criminal judgment was entered on July 25, 2018. Therefore, my petition is not late

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: Vacate and REVERSE my conviction and sentence; allow me to withdraw my plea; allow me to have an out-of-time Direct Appeal so my constitutional rights or any other relief to which movant may be entitled. will be preserved. And GRANT

me any and all relief I may be constitutionally or statutorily entitled to. Also, recall the mandate in my case.

And finally, permit me to file a brief in support of this motion within 90 days of its docketing.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 5/9/2019 (month, date, year).

Executed (signed) on 5/9/2019 (date).



Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

C E R T I F I C A T E O F S E R V I C E  
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This is to certify, under penalty of perjury under the laws of the United States of America pursuant to 28 U.S.C. §1746, that I have served a true and correct copy of the foregoing:

Motion to Vacate, Set Aside, or Correct Sentence (28 U.S.C. §2255)  
(13 pages)

Upon the following address(es) by placing same in a sealed envelope, bearing sufficient postage for delivery via the United States Postal Service, to:

Clerk Of Court  
U.S. Courthouse  
2012 15th Street  
Room 403  
Gulfport, MS 39501

and deposited it in the postal box provided for inmates on the grounds of the Federal Correctional Institution, Aliceville, AL on this 9th of May, 2019.



Erin Woods #20701-043, PRO SE  
without prejudice, UCC 1-308  
Satellite Prison Camp-Aliceville  
P.O. Box 487  
Aliceville, AL 35442

Litigation is deemed FILED at the time it was delivered to prison authorities.  
See Houston v. Lack, 487 US 266, 101 L Ed 2d 245, 108 S Ct 2379 (1988)